

**Statement of Richard A. Ratliff, P.E.
Radiation Program Officer
Division for Regulatory Services
Texas Department of State Health Services
Before the Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
U.S. House of Representatives
June 6, 2006
Hearing: “The Silicosis Story: Mass Tort Screening and the Public Health”**

Good afternoon, Congressman Whitfield and members of the Subcommittee. I am pleased to be here today to discuss the radiation regulatory requirements for medical x-ray users in Texas and answer your questions on specific findings concerning x-ray screening investigations conducted by the Texas Department of State Health Services (DSHS).

Texas Health and Safety Code, Title 2, Subtitle D, Chapter 401 (Texas Radiation Control Act) provides for regulation of sources of radiation to ensure protection of the occupational and public health and safety and the environment. The Texas Radiation Control Act mandates that a person may not use a source of radiation unless that person has a registration from DSHS and it directs DSHS to adopt rules and guidelines that provide for registration of sources of radiation.

DSHS has adopted rules specific to healing arts screening in Title 25, Texas Administrative Code (TAC), §§289.226 and 227. The rules define healing arts screening, require persons performing healing arts screening to be registered with DSHS prior to initiating the screening program, and requires specific information to be submitted with an application for healing arts screening.

These DSHS rules define healing arts screening as “The testing of asymptomatic human beings using radiation machines for the detection or evaluation of health indications when such tests are not specifically and individually ordered by a licensed practitioner of the healing arts legally authorized to prescribe such x-ray tests for the purpose of diagnosis or treatment.”

Specific application information includes the diseases or conditions for which the x-ray examinations are to be used in diagnoses, a detailed description of the x-ray examinations proposed in the screening program, a description of the population to be examined in the screening program (age, sex, physical condition) and an evaluation of any known alternate methods not involving ionizing radiation that could achieve the goals of the screening program and why these methods are not used instead.

An application for healing arts shall be signed by a licensed practitioner. The application must also be signed by the radiation safety officer. Additionally, the qualifications of the individual who will be supervising the operations and the name and address of the practitioner who will interpret the radiographs must be submitted with the application. A condition is added to the certificate that ties the registrant to commitments made in the application.

A licensed practitioner of the healing arts, licensed in Texas, is required to direct/oversee the operation of radiation machines. Individuals who operate radiation equipment must meet the appropriate credentialing requirements in accordance with the Medical Technologist Certification Act, Texas Occupations Code, Chapter 601.

DSHS does not require a licensed practitioner to be present/on site when a company conducts healing arts screening. However, a practitioner licensed to practice in Texas must be designated to direct and oversee the operation of the radiation machines and to interpret all x-ray films.

An application for authorization to conduct healing arts screening must include the submission of procedures to be used in advising the individuals screened, and their private practitioners of the healing arts, of the results of screening procedures and any further medical needs indicated.

DSHS to date has only authorized healing arts screening for three diagnostic x-ray procedures: mammography, bone densitometry, and heart computed tomography (CT).

In 1999 DSHS began investigations into complaints concerning unauthorized x-ray healing arts screening of individuals for possible illness due to asbestos or silicosis.

The DSHS investigators revealed that seven entities had x-rayed individuals after interviewing them for exposure to silica in the workplace. Only one of the seven companies had licensed physicians providing each person x-rayed with an individual prescription and thus was not performing screening x-rays as defined by rule.

Five of the other six companies were not authorized to perform x-ray screening procedures.

One company had submitted an application for registration, which was denied after it failed to submit verification that a physician would oversee the operation of the x-ray registration and provide each person x-rayed an individual prescription for the x-ray. Five of the companies were from outside the state of Texas. One company paid a

\$10,000.00 administrative penalty for violations of DSHS rules and three others were issued notices of violation.

Currently none of the seven companies are performing x-ray screening in Texas. Only two medical facilities are still performing x-ray procedures in Texas. The following table summarizes the Texas DSHS' investigations. All future out of state x-ray registrants will be required to notify the Texas Department of State Health Services each time they do x-ray exams in Texas to assure compliance with all regulatory requirements. Thank you for requesting my testimony on this issue today. I will be happy to answer any questions.

Silicosis X-ray Screening Investigations in Texas

X-ray Screening Company	Date found in Texas performing Screening	Contracted by Law Firm (Yes/No)	Violations
		Status	
RGL Medical Services, Park City, Utah	March 4, 2003	YES, Never registered	1. Not Registered with Texas 2. Performing screening X-rays – not authorized Left Texas after Notice of Violation Issued
Tyler Rehab Associates, L.P., Tyler, Texas	January 11, 2001	Yes, Providing in hospital services	Performing x-ray screening with out authorization. Stopped after Notice of Violation Issued
Occupational Marketing, Inc., Houston, Texas	January 1999-2002	Yes, Registration Terminated by request of the company	Licensed physicians provided each person x-rayed with individual prescription.
Radiology Associates LLP, Corpus Christi, Texas	September 23, 1999	Yes, Providing non-screening radiology services	Performing x-ray screening with out authorization. Stopped after Notice of Violation Issued.
Respiratory Testing Services, Inc., Mobile, Alabama	Application March, 26, 2003	Unknown	Registration application denied for failure to submit verification that a physician would provide each person x-rayed with individual prescription.
US X-Ray, Inc., Chesapeake, Ohio	August 17, 2001	Yes, Registration Terminated by request of the company	Ordered to Cease and Desist. Paid a \$10,000.00 administrative penalty.
N & M, Inc, dba N&M Testing, Inc., Moss Point, Mississippi	June, 24, 2002	Registration expired due to failure to pay annual permit fee March 5, 2005	Recommended Notice of Violation, not issued after unable to inspect x-ray operations

